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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/858,137	05/15/2001	Eberhard Lipp	1746-6	1743

7590 12/26/2002

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EXAMINER

COOLEY, CHARLES E

ART UNIT	PAPER NUMBER
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1723

11

DATE MAILED: 12/26/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.
09/858,137

Applicant(s)
Lipp

Examiner
Charles Cooley

Art Unit
1723



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 Oct 2002
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above, claim(s) 9-15 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7 and 16 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☒ Claims 1-16 are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 15 May 2001 is/are a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some* c) ☐ None of:
- ☒ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- *See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s). 4, 5 6) ☐ Other:

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OFFICE ACTION

Election/Restriction

1. Applicant's election of Species A in Paper No. 10 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).
2. Claims 8-15 are thereby withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim. Election was made without traverse in Paper No. 10.

Priority

3. Receipt is acknowledged of papers submitted under 35 U.S.C. § 119, which papers have been placed of record in the file.

Information Disclosure Statement

4. Note the attached PTO-1449 forms submitted with the Information Disclosure Statements filed 19 JUL 2001 and 18 SEP 2001.

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Drawings

5. The drawings are objected to because of the following informalities:
- a. the shearing head should be labeled in Figure 1 (see claim 16 and Fig. 4).
 - b. reference character 28 in Figure 4 is not described in the specification.
 - c. Figure 5 is a cross-sectional view where in Figure 4. Appropriate sectional lines should be added to Figure 4 (i.e., sectional line 5-5 should be added at the proper location in Figure 4 and the specification revised accordingly).

Correction is required.

6. Applicant should verify that (1) all reference characters in the drawings are described in the detailed description portion of the specification and (2) all reference characters mentioned in the specification are included in the appropriate drawing Figure(s) as required by 37 CFR 1.84(p)(5).

7. Applicant is required to submit a proposed drawing correction in response to this Office Action. Any proposal by the applicant for amendment of the drawings to cure defects must include a print or pen-and-ink sketch showing changes in *red ink* in accordance with MPEP § 608.02(v).

IMPORTANT NOTE: The filing of new formal drawings to correct the noted defect may be deferred until the application is allowed by the examiner, but the print or pen-and-ink sketch with proposed corrections shown in red ink is required in response to this Office Action, and *may not be deferred*.

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Specification

8. The substitute specification has been entered but not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

9. The disclosure is objected to because of the following informalities:

a. Page 6, lines 17 and 18 are worded in an awkward manner ("mixed good").

Appropriate correction is required.

10. The Abstract of the Disclosure is objected to because:

a. Line 3 is worded in an awkward manner ("mixed good").

Correction is required. See MPEP § 608.01(b).

11. The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed (MPEP 606.01).

Claim Rejections - 35 U.S.C. § 112, second paragraph

12. Claim 16 is rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

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Claim 16: "the end of the mixing blades" lacks antecedent basis.

13. Each pending claim should be thoroughly reviewed such that these and any other informalities are corrected so the claims may particularly point out and distinctly claim the subject matter which applicant regards as the invention, as required by 35 U.S.C. § 112, second paragraph.

Claim Rejections - 35 U.S.C. § 102

14. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

15. Claims 1-4 and 6-7 are rejected under 35 U.S.C. § 102(b) as being anticipated by Marshall (USP 3,675,902).

The patent to Marshall (USP 3,675,902) discloses first and second mixing spirals 18 on a vertical rotational axle 22; a transition zone 26 free of a mixing spiral disposed between the mixing spirals; the mixing spirals having different axial conveyed quantities by virtue of different helix angles (Fig. 1).

16. Claims 1-7 and 16 are rejected under 35 U.S.C. § 102(b) as being anticipated by Ott et al. (USP 4,552,461).

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The patent to Ott et al. (USP 4,552,461) discloses in Fig. 3 first and second mixing spirals 4, 16 on a vertical rotational axle 2; a transition zone (the empty area between 4 and 16) free of a mixing spiral disposed between the mixing spirals; the mixing spirals having different axial conveyed quantities by virtue of different helix angles (Fig. 3) or different blade widths (Fig. 3); a shearing head 6 on the vertical rotational axle 2.

* * *

With regard to the above rejections, the operational and functional language of the claims (e.g., the language of claims 6 and 7) has been considered but fails to impart or invoke any further structure or means (per 35 USC 112, sixth paragraph and MPEP 2181) to the pending apparatus claims which defines over the applied prior art. Consequently, since all of the claimed structure is met by the applied prior art, the rejections under 35 USC 102 are deemed proper.

Conclusion

17. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

The cited prior art discloses stirrers with discontinuous helical members.

18. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Examiner Charles Cooley whose telephone number is ☎ (703) 308-0112.

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19. Any inquiry of a general nature or relating to the status of this application should be directed to the Technology Center 1700 receptionist whose telephone number is ☎ (703) 308-0651.

Dated: 20 December 2002

A handwritten signature in black ink, appearing to read "Charles Cooley", written over a horizontal line.

Charles Cooley
Primary Examiner
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